

Dick

April 21, 1972

Subject: Lower Fremont River
Distribution System,
Road Creek Division

Judge Ferdinand Erickson
Sevier County Courthouse
Richfield, Utah 84701

Dear Judge Erickson,

Enclosed are the proceedings of a meeting held with the Road Creek Water Users and Well Owners in the Wayne County Courthouse in Loa on the evening of April 13, 1972. Also enclosed is a summary of the Road Creek stream flow rights and well rights, a copy of the Joseph H. Erickson Decree on Road Creek, a copy of the "Agreement For Settlement Of Water Rights" between the Road Creek stream owners and well owners, copies of the Certificates Of Appropriation on filings 95-271, 95-293, 95-257, 95-358, 95-359 and 95-424, copies of Change Applications a-4633 and a-4754 On 95-359 and a copy of the Memorandum Decision approving Application NO. 31869(95-424). I believe that these documents are the governing documents relevant to the distribution of water on the Road Creek Division of the Lower Fremont River Distribution System.

With regard to the meeting of April 13, I believe that the proceedings are more or less self explanatory. I personally feel that perhaps the assessment should have been made in such a way that the well owners and Road Creek stream users not subject to the "Agreement For Settlement Of Water Rights" should pay a portion of the cost of the commissioners services since they will derive some benefit from his services. I believe that Mr. Lambert is of somewhat the same opinion. However the Road Creek stream owners at the meeting were insistent that the well owners bear the cost. The well owners at the meeting who also thought that the stream owners would derive some benefits and should pay some of the costs, admitted that they were subject to the terms and conditions of the agreement and would thus have to bear the costs as indicated.

Also enclosed is a copy of the proceedings of a meeting held with the Torrey Irrigation Co. and Larry Bagley with regard to the moving of 1.1 cfs of "A" water into the Garkane Ditch. I believe that this matter is settled.

If you wish to discuss either of these matters further, please let me know and I will come to Richfield to meet with you.

Sincerely Yours

Kenward
Kenward H. McKinney
Area Engineer

cc:Don Norseth

MEETING OF ROAD CREEK WATER USERS AND
ROAD CREEK WELL USERS, APRIL 13, 1972

On April 13, 1972 at 7:30 p.m. a meeting of the Road Creek Water Users and the Road Creek Well Users was held in the Wayne County Courthouse, Loa. The following individuals representing the indicated interests were present at this meeting:

Dixie Leavitt - Security Ranches - Decreed Water and a portion of 95-357
Don Anderson - Security Ranches
Melvin P. Okerlund - Self - Decreed water and portion of 95-357
Clare Okerlund - Self - Decreed water and portion of 95-357
Spencer T. Rees - Self - All of 95-358 and a portion of 95-359
Orval Taylor - Self - Portion of 95-359
Blaine Chappell - Self - Portion of 95-359
Kenward H. McKinney - Area Engineer, Division of Water Rights,
Price Office
Grant Chappell - River Commissioner

The subjects of discussion at this meeting were:

1. Loa Waterworks Company Well, Application No. 31869 Certificate No. 7192 (95-424)
2. Duties to be performed by the commissioner.
3. Payment to the commissioner.
4. Assessment to raise money for payment to the commissioner.

The referenced Loa Waterworks Company well was constructed adjacent to West Spring, one of the sources of Road Creek. The application was protested by the Road Creek Water Users and was approved over protest by the State Engineer, after the filing was reduced to .58 sec.-ft., the amount of water which flowed from the well. The Road Creek Water Users contend that this well has contributed to the reduction of the flow of Road Creek and has thus interfered with the prior rights of both the Road Creek Water Users and the Road Creek Well Users, since the well users, by agreement, have to make up any deficiency in the flow of Road Creek. The subject Loa Waterworks Company well is not subject to the terms of the agreement dated April 10, 1950. It was suggested that the Road Creek Water Users write a letter to the State Engineer outlining the problem and requesting some sort of relief.

The duties of the commissioner were generally defined to be the measurement of all waters contributing to the flow of Road Creek specifically including the measurement of the water from wells covered by filings Area Code 95-357, 95-358, and 95-359. The Commissioner will see that each of the 4 wells covered by the referenced filings, which are subject to the "Agreement For Settlement Of Water Rights" dated April 10, 1950 between the Road Creek Water Owners and the Road Creek Well Owners, contributes its pro rata share of the water required to make the normal flow of Road Creek the agreed to 5.8 sec.-ft. The commissioner would

not be required to distribute water to the individual users. The commissioner would make recommendations regarding the installation, repair or replacement of any necessary measuring devices. The commissioner would generally make one trip per week and at other times as necessary, during the period April 15, 1972 to October 15, 1972.

After discussion of the duties of the commissioner and the period during which he would perform his duties, Grant Chappell indicated, at least for a point of discussion, that he would like to be compensated at the rate of \$350.00 for the season, plus mileage at the rate of 12¢/mile. The mileage was estimated to be 15 miles/trip and 28 trips would be made. This would amount to \$50.40 for mileage. There were no objections from any of those present to this suggested rate of compensation. Grant Chappell was then asked if he would take the job on a contractual basis for \$400.00. After some discussion Mr. Chappell agreed to do the work for \$400.00. A report was to be included as part of the contractual services.

Grant Chappell

The method of assessment was then discussed. There were two possible methods of assessment. One method would be to make a pro rata assessment on all water users on the system, both the Road Creek Water Owners and the Road Creek Well Owners. The other method would be to make a pro rata assessment on the Road Creek Well Owners. This latter method is supported by the second sentence of the seventh paragraph of the "Agreement For Settlement Of Water Rights", which states: "It is also agreed that the Well Owners are to stand or pay the cost of maintaining the measuring device in Road Creek and the expense of measuring the said stream flow." After discussion, during which it was pointed out that there were valid points favoring each method of assessment, it was decided to assess the Road Creek Well Owners the cost of the contractual services for the River Commissioner for 1972. Spencer T. Rees indicated that, by rough inspection, he would be paying approximately 1/2 of the assessment and suggested that perhaps there were enough benefits accruing to the Road Creek Water Owners that they should contribute at least something toward the payment of the total assessment. This was objected to by some who indicated that they felt that if it were not for the wells the services of the commissioner would not be required. It was also pointed out that the method of assessment decided upon was one of the provisions of the "Agreement For Settlement Of Water Rights". The point was raised that all of the provisions of this agreement should be lived up to and enforced. The fear was expressed that if one provision of the "Agreement" were waived it might jeopardize the validity of the entire agreement. It was again affirmed that the Road Creek Well Owners would be assessed on a pro-rata basis for the operation of the system.

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The meeting adjourned at 9:20 p.m.

Road Creek Water & Well Users Meeting

III

The following is an outline of the assessment and the method of computation thereof. This assessment is based upon the proportionate share of the total amount of water certificated to filings 95-357, 95-358 and 95-359 which are subject to the agreement of April 10, 1950. The amount of water certificated under each filing is as follows: 2.35 sec.-ft. to 95-357; 1.47 sec.-ft. to 95-358 and 2.43 sec.-ft. to 95-359 for a total of 6.25 sec.-ft. of water.

Filing	Sec.-ft.	Percentage Computation	Proportionate Share of Assessment	
95-357	2.35	$2.35/6.25 = 37.6\%$	$.376 \times 400.00 = \$150.40$	
95-358	1.47	$1.47/6.25 = 23.6\%$	$.236 \times 400.00 = \$94.40$	
95-359	2.43	$2.43/6.25 = 38.8\%$	$.388 \times 400.00 = \$155.20$	
				<u>\$400.00</u>
To Be Assessed	Filing	Proportion Owned		
(1) Security Ranches	95-357	.333		
% Don Anderson	95-357	.167		
Loa, Utah	95-357	<u>.083</u>		
			$.583 \times 150.40 = \$87.68$	07236
(2) Leonard Taylor	Loa, 95-357	.042	$.042 \times 150.40 = \$6.32$	
(3) Melvin Okerlund	Loa, 95-357	.083	$.083 \times 150.40 = \$12.48$	07105
(4) Thaine Taylor	Loa, 95-357	.167	$.167 \times 150.40 = \$25.12$	
(5) Clare Okerlund	Loa, 95-357	.125	$.125 \times 150.40 = \$18.80$	07106
		1.00		\$150.40
(6) Spencer Rees	Loa, 95-358	1.00	$1.00 \times 94.40 = \$94.40$	07259
				\$94.40
(7) Spencer Rees	Loa, 95-359	.667	$.667 \times 155.20 = \$103.52$	07259
(8) Blaine Chappell	Loa, 95-359	.200	$.200 \times 155.20 = \$31.04$	07130
(9) Orval C. Taylor	95-359	.133	$.133 \times 155.20 = \$20.64$	07151
		1.00		\$155.20
			\$400.00	<u>\$400.00</u>

Receipt
No.
Paid